IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2007

CORAM

THE HONOURABLE MR. JUSTICE F.M.IBRAHIM KALIFULLA
AND
THE HONOURABLE MR.JUSTICE M.E.N.PATRUDU

Writ Petition No. 4378 of 2002

Smt.P.Sreeja ... Petitioner

vs

1.Union of India through
Union Territory of Pondicherry
rep. by its Secretary to Government,
Education Department, Pondicheery-1.

2.Director of Education
Govt. of Pondicherry, Directorate of Education,
Pondicherry-1.

3.Central Administrative Tribunal,
Madras Bench rep. by its Vice Chairman,
City Civil Court Buildings,
Chennai-600 104. ... Respondents.

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for the issuance of the Writ of Certiorarified Mandamus calling for the order of the third respondent in O.A.No.354 of 2001 dated 6.12.2001, quash the same and direct respondents 1 and 2 to select and appoint the petitioner to the post of Secondary Grade Teacher under the first respondent in general category as per Advertisement in No.12862/EDN/Estt-II/C/2000 dated 26.05.2000.

For Petitioner : Mr.M.A.Abdul Wahab
For Respondents : Mr.T.Murugesan,
Government Pleader, Pondicherry,
for R1 and R2.

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O R D E R

(Order of the Court was made by F.M.IBRAHIM KALIFULLA,J.)

The petitioner who aspired to become a Secondary Grade Teacher, having been not selected in the selection made pursuant to the Advertisement dated 26.05.2000, approached the Central Administrative Tribunal by filing O.A.No.354 of 2001 and the Tribunal, on finding that the petitioner has failed to secure the required cut off marks of the last selected candidate, rejected the petitioner's application. Aggrieved against the same, the petitioner has come forward with the present writ petition.

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2. A perusal of the Advertisement dated 26.05.2000 disclose that in order to apply for the post of Secondary Grade Teacher, one should have the following Educational Qualification:-

"Educational Qualification:

A pass in Higher Secondary Course or equivalent with not less than 50% marks in aggregate together with SGT's Training Certificate or D.T.Ed. Training Certificate offered by recognised Institution. The minimum academic qualification for admission to the above Training Certificate Course should be Higher Secondary (12^{th}) and the Course should be of two years duration. Should possesses working knowledge of the regional language.

OR

A Degree with a Degree in Teaching of a recognised university. Should possess working knowledge of the regional language.

The applicant should possess the required Educational Qualification as on 01.05.2000. "

Clause 4 of the said Advertisement states as to how the merit of a candidate will be assessed, which reads as under:-

"4. The recruitment will be based on the merit of the candidates assessed on the following basis:

Aggregate of:

1. Percentage of marks obtained in the basic minimum educational qualification, i.e, Higher Secondary or equivalant. For every additional attempt to pass the exam a deduction of 5% will be made.

2. Percentage of marks obtained in the Diploma in Education or equivalent in the case of Diploma holders and percentage of Marks obtained in B.Ed. or equivalent in the case of B.Ed. Holders. A deduction of 5% will be made for every additional attempt to pass the exam."

3. When the petitioner was not selected and the O.A. came to be filed, the petitioner claimed that she had done her B.Sc. (Education Degree Course) from the Mysore University, which she is stated to have undergone between 1985 to 1989. It is also admitted by the petitioner that after the completion of the course in the year 1989, she could come out successful only in May 1990. Therefore, it is obvious that the petitioner did not come out successful in the B.Sc. Education Degree Course in the first attempt. According to respondents 1 and 2, the petitioner made more than one attempt to come out successful in her Degree

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examination. The petitioner claimed that she had to make a second attempt only other than the first attempt, which she made at the end of the course of the year, viz., 1989. When we perused the advertisement dated 26.05.2000, we find that the required educational qualification was a pass in Higher Secondary Course or equivalent with not less than 50% of marks in aggregate together with SGT's Training Certificate or a Diploma in Teacher Education Training Certificate offered by a recognised Institution. Instead, a candidate with degree in teaching of a recognised University with working knowledge of the regional language was also entitled to apply. Since, in the case on hand, the petitioner made her application based on her B.Sc. Education Qualification, her merit, as provided in paragraph No.4 of the Advertisement, has to be made with particular reference to marks obtained by her in the said Degree Course. In this respect, when we perused the claim of the petitioner, as regards the percentage of the marks secured by her, which, according to her, was 62.65 %, under Ex.A-3, we find that the petitioner clubbed the percentage of the marks obtained by her in the Higher Secondary Course as well as in the Degree Course and thereafter, claimed that by both put together, she secured 62.65%, after deducting 5% of marks secured in the Degree Course.

4. We are afraid that such a calculation made by the petitioner in order to display her total percentage of marks was not permissible at all as per paragraph No.4 of the Advertisement dated 26.05.2000. When the required Educational qualification was stated to be either Higher Secondary with Diploma Certificate or a Degree in Education, the petitioner can only rely upon the marks secured by her in the Degree Course and if that is taken into account even as per her own calculations, she obtained 58.54 % and since it was not in the first attempt after deducting 5% of marks, the ultimate marks which can be taken into account for the purpose of assessing her merits as per the Advertisement was only 53.54%. The petitioner, in her O.A. before the Tribunal, contended that the last selected candidate had secured 62.65% . Since we have found that the claim of the petitioner that she had secured 62.65 % was based on a wrong calculation of her marks, that is, by adding the marks secured in the Higher Secondary Course along with the Degree Course and that the percentage of the marks obtained by her in the Degree Course, even according to her own calculation, was only 53.54% , which was far below the marks secured by the last candidate selected by the respondents, the petitioner should fail in her claim made in the O.A. Therefore, apart from the reasons adduced by the Tribunal in rejecting the petitioner's O.A., for the reason now stated that the petitioner deliberately made a wrong calculation in order to boost up her percentage of marks, we hold that, on this ground itself, the petitioner is not entitled for any

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relief. We, accordingly, dismiss the writ petition and sustain the order of the Tribunal with costs of Rs.1000/- The cost to be paid to the Legal Services Authority, Pondicherry, within a period of one month.

bs/

Sd/-
Assistant Registrar

/true copy/

Sub Assistant Registrar.

To

1. The Secretary to Govt,
Union of India through Union Territory of Pondicherry.
Education Department, Pondicheery-1.

2.The Director of Education ,
Govt. of Pondicherry,
Directorate of Education,
Pondicherry-1.
3.The Vice Chairman,
Central Administrative Tribunal,
Madras Bench,
City Civil Court Buildings,
Chennai-600 104.
4. The Lelgal Services Authority,
Pondicherry.
+ One cc to Govt pleader, SR 4594
+ One cc to Mr. M.A. Abdul Wahab Advocates SR 5172.
SR (co)
sg 5/2/07

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